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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/574,456	05/19/2000	Mario Elam Tremblay	7568M	7765

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EXAMINER

CINTINS, IVARS C

ART UNIT

PAPER NUMBER

1724

DATE MAILED: 08/01/2003

*U6*

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Applicati n No.

09/574,456

Applicant(s)

TREMBLAY ET AL.

Examiner

Ivars C. Cintins

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 12-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 14.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 12-16 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. The limitation that the filter core contains activated carbon particles "excluding sodium hydroxide treated activated carbon particles" (claim 12, lines 5-6) does not appear to be supported by the disclosure originally filed, and hence constitutes **new matter**. Applicant should note that the mere fact that the specification does not mention using sodium hydroxide treated activated carbon particles does not provide a basis for the recitation that such sodium hydroxide treated activated carbon particles are excluded from the filter core.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17-23 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The term "selected from the group comprising of" (claim 17, line 4) is deemed to be improper Markush language, and therefore indefinite. Claims 18-23 depend from claim 17, and are therefore themselves indefinite. Applicant is advised that an amendment changing "comprising" to "consisting" in the above noted expression would overcome this rejection.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 17 and 20-23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wallis et al. (U.S. Patent No. 3,770,625). The reference discloses a filter comprising a housing (see col. 4, line 21), a filter “core” comprising activated carbon granules (col. 2, line 29) and/or pellets (col. 2, line 30) in the housing, and further teaches that this filter has a virus removal index of 100% (see col. 3, lines 12-13); and this is all that is required by claims 17 and 20-23. Applicant should note that the Markush group member “at least some activated carbon particles” (claim 17, line 4) includes filters having all activated carbon particles, such as the filter of Wallis et al.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallis et al. The reference discloses the claimed invention with the exception of the recited bulk density of the filter core (claims 18 and 19). However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a filter core having the recited bulk density in the device of Wallis et al., in order to ensure adequate contact between the activated carbon of this reference filter and the water undergoing treatment.

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Claims 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koslow et al. (U.S. Patent No. 5,922,803). The reference discloses a filter comprising a housing and a filter core consisting essentially of activated carbon particles, which activated carbon particles have not been treated with sodium hydroxide. This reference further teaches that the filter core can have a bulk density of 0.65 to 0.75 g/cm<sup>3</sup> (col. 3, lines 29-30), and can contain different sized activated carbon particles (col. 2, lines 22-23). Applicant should note that since the particles of activated carbon in the reference filter are spaced from one another to produce a bulk density within the middle of the recited range (see col. 3, lines 29-30 of the reference; and claim 15 of this application), this reference filter will inherently have the recited Virus Removal Index. Accordingly, this reference discloses the claimed invention with the exception of the recited “information.” However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the filter of Koslow et al. with the recited “information” (e.g. operating instructions), in order to ensure that the user of this device operates it properly.

Applicant's arguments filed April 29, 2003 have been noted and carefully considered but are not deemed to be persuasive of patentability. Applicant argues that Wallis et al. does not anticipate claims 17 and 20-23 because claim 17 requires that the filter core contain both activated carbon and non-carbonaceous particles. This argument is not understood since claim 17, as amended, merely requires that the filter core contain particles “selected from the group” comprised of (1) “at least some activated carbon particles”; and (2) “at least some non-carbonaceous particles.” Since the term “at least some” reads on “all,” and since the filter core of Wallis et al. contains all activated carbon particles, this reference filter is deemed to anticipate claim 17.

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Applicant's arguments with respect to claims 12-16, 18 and 19 have also been noted and carefully considered, but no longer appear to be relevant in view of the new grounds of rejection.

Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

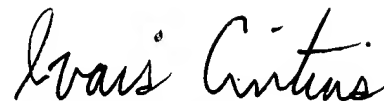
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is (703) 308-3840. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Blaine Copenheaver, can be reached at (703) 308-1261.

The fax phone numbers for this art unit are: (703) 872-9311 for "Official" faxes after Final Rejection; (703) 872-9310 for all other "Official" faxes; and (703) 872-9492 for "Draft" and other "Unofficial" faxes.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.



**Ivars C. Cintins**  
**Primary Examiner**  
**Art Unit 1724**

I. Cintins  
July 27, 2003